

Before the  
Federal Communications Commission  
Washington, D.C. 20554

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**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY**

In the Matter of )

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Application by Verizon New England )  
Inc., Bell Atlantic Communications, )  
Inc. (d/b/a Verizon Long Distance), )  
NYNEX Long Distance Company )  
(d/b/a Verizon Enterprise Solutions), )  
and Verizon Global Networks Inc., for )  
Authorization To Provide In-Region, )  
InterLATA Services in Massachusetts )

CC Docket No. 01-9 /

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## **ATTACHMENTS**

- Attachment A: Proportionate Competitive Lines at Time of § 271 Applications
- Attachment B: Proportionate CLEC DSL Loops at Time of § 271 Applications
- Attachment C: Proportionate Facilities-Based Lines – Massachusetts vs. New York
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## **APPENDICES**

### **Appendix A: Supplemental Reply Declarations**

Tab 1 — Joint Supplemental Reply Declaration of Paul A. Lacouture and Virginia P. Rueterholz  
(Competitive Checklist)

Tab 2 — Joint Supplemental Reply Declaration of Kathleen McLean and Raymond Wierzbicki  
(Operations Support Systems)

Tab 3 — Joint Supplemental Reply Declaration of Russell J. Sapienza and Gerard J. Mulcahy  
(Unbundled DSL Loop and Line Sharing Performance)

Tab 4 — Joint Supplemental Reply Declaration of Robert H. Gertner and Gustavo E. Bamberger  
(Unbundled DSL Loop Performance Data)

Tab 5 — Supplemental Reply Declaration of William E. Taylor  
(Local Competition and InterLATA Competition)

### **Appendix B: Unbundled DSL Loop and Line Sharing Performance Data for Individual CLECs**

(Appendix B consists entirely of confidential and proprietary data, including CLEC proprietary data; this appendix is being filed only on CD-ROM.)

## INTRODUCTION AND SUMMARY

The facts on the ground show that local markets in Massachusetts are unquestionably open to competition, and Verizon's application to provide long distance service in that state should be granted expeditiously.

Competitors in Massachusetts now serve more than 850,000 lines, which, in proportion to the number of statewide access lines, is significantly greater than the number of competitive lines that were in any of the four states that have received section 271 authority at the time applications were filed in those states. See Brief Attachment A. Likewise, competitors are using all three modes of entry available under the 1996 Act, but with special emphasis on long-lasting facilities-based competition. Again, the 550,000 lines being served by competitors over their own facilities — including more than 150,000 facilities-based residential lines — is proportionately greater than in any other state where the Commission has granted long distance authority. See id. Moreover, the Massachusetts DTE has concluded that Verizon's supplemental filing "supports and further confirms" its original conclusion that Verizon has "met its obligations" under section 271, and accordingly "recommends, without reservation, that the FCC grant VZ-MA's application." DTE Supp. Eval. at i, ii. These facts establish a strong presumption that Verizon has met the requirements of the 1996 Act — a presumption that no commenter in this proceeding comes even close to rebutting.

This is equally true of the only issues that remained in dispute with respect to Verizon's original application: those that related to Verizon's performance on the subset of unbundled loops used by other carriers to provide DSL service. To address these concerns, Verizon refiled its application together with extensive supplemental information regarding its performance in providing access to DSL-capable loops. The DTE has reviewed this supplemental information and has found that it "leaves little room for doubt about [Verizon's] compliance with its § 271

obligations” Id. at ii. Moreover, the additional DSL-capable loop performance data for the most recent months that are provided here further confirm that Verizon’s performance in providing access to DSL-capable loops is strong and addresses the few questions that have been raised with respect to the supplemental filing.

In addition, the long distance incumbents again rehash their claim that the rates for unbundled network elements in Massachusetts are somehow too high. But the simple fact is that the unbundled switching rates in Massachusetts are set at the same levels that the Commission approved in New York, and which the Commission found fall within the range that a reasonable application of TELRIC principles would produce. The long distance incumbents do not seriously dispute this. They argue instead that the Commission should consider whether Verizon’s rates provide a discount that is sufficiently large for the long distance incumbents themselves to make a profit by entering the market. But, as the Commission has recently held, this argument is entirely “irrelevant” under the 1996 Act. This is particularly true under the circumstances presented here, where the very rates at issue have already permitted competitors to obtain more than 1.5 million local lines in New York using unbundled elements, about three-quarters of which have gone to AT&T and WorldCom.

Verizon’s entry in New York likewise has resulted in unprecedented long distance competition. Indeed, two major consumer organizations have recently noted that the experience with Verizon’s long distance entry in New York is “the most stunning example” “of how effective competition can deliver benefits to consumers in communications markets.” Consumers in Massachusetts are now entitled to receive the same undisputed benefits that consumers in New York have received as a result of Verizon’s entry.

For all these reasons, the Commission should grant this application expeditiously.

**I. VERIZON SATISFIES THE COMPETITIVE CHECKLIST.**

Verizon demonstrated in its original application that its overall checklist performance is excellent. Following an exhaustive 16-month review, the Massachusetts DTE agreed, finding that Verizon “has met the requirements of § 271(c) of the Telecommunications Act of 1996.” DTE Eval. at 1. Moreover, the DTE has found that Verizon’s “supplemental filing supports and further confirms the conclusions we reached last year.” DTE Supp. Eval. at i.

As the comments here demonstrate, the only serious dispute regarding Verizons’s entire checklist performance relates to the subset of loops used to provide DSL service. This is, for example, the only issue about which the Department of Justice (“DOJ”) expresses any concerns. But the DTE has found that Verizon’s supplemental filing “affirm[s] that its provision and repair of xDSL loops is nondiscriminatory, and that its provision and repair of line-shared loops is nondiscriminatory.” Id. at ii. Moreover, nothing in the DOJ’s Evaluation suggests that the Commission should reach a different conclusion. The DOJ merely “highlight[s] some of the key disputed issues,” notes that it has been “unable to answer” these issues “bas[ed] on its review of the record developed to date,” and “urges the Commission to consider the full record in determining how it should ultimately resolve this application.” DOJ Supp. Eval. at 3, 14, 15. And the DOJ expressly recognizes that “[r]eply comments . . . undoubtedly will provide” the Commission with “additional evidence” to make this determination. Id. at 15 n.61.

These reply comments provide the very kind of additional evidence that the DOJ has anticipated. In particular, these comments demonstrate that Verizon’s performance in providing access to DSL-capable loops continues to be strong in the most recent months for which data are now available, and that the concerns about Verizon’s performance are based on inaccurate and misleading statements by Verizon’s opponents, or relate to imperfect performance measurements that are affected by CLECs’ own behavior.

**A. DSL-Capable Loop Performance.**

Verizon's performance in providing access to DSL-capable loops must be viewed in context: the total DSL-capable loops provided to CLECs (which includes line sharing) represent less than one-third of all the stand-alone loops that Verizon has provided in Massachusetts, and only 2.5 percent of the more than 850,000 competitive lines in the state. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 7; Brief Attachment A. And even in the most recent months, DSL-capable loops continue to be a minority of the competitive lines — and even unbundled loops — that competitors are adding on a monthly basis. In December and January, for example, competitors in Massachusetts added at least 40,000 facilities-based lines and more than 15,000 unbundled loops (including more than 3,500 as part of platforms). See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 7. By comparison, competitors obtained only 3,500 DSL-capable loops during this time (including those provided through line sharing arrangements). See id. ¶¶ 7, 103.

As Verizon has previously explained, the fact that DSL-capable loops represent a tiny fraction of local competition in Massachusetts does not mean that Verizon takes its obligations to provide them any less seriously than for other kinds of unbundled loops. To the contrary, Verizon has devoted enormous resources to serving wholesale customers of DSL-capable loops. And other carriers already are using DSL-capable loops in Massachusetts to an even greater extent than in any of the other states where the Commission has granted section 271 authority. See Brief Attachment B.

Moreover, Verizon's performance in providing competitors access to DSL-capable loops has been strong, as the DTE has unequivocally confirmed. These reply comments provide further evidence that this continues to be the case. For example, these comments confirm that Verizon has met more than 97 percent of its installation appointments for DSL-capable loops in

Massachusetts; that approximately 96 percent of these new unbundled loops experience no troubles in any month; and that, with respect to the small fraction that do, Verizon repairs them in a timely and nondiscriminatory manner.

The comments do not challenge Verizon's performance on the overwhelming majority of the performance measurements that the DTE has adopted to analyze Verizon's performance in providing access to DSL-capable loops. The Commission has recently held, however, that, "where there are multiple performance measures associated with a particular checklist item, [the Commission will] consider the performance demonstrated *by all the measurements as a whole.*" Kansas/Oklahoma Order ¶ 32 (emphasis added).<sup>1</sup> As demonstrated below, under this standard, Verizon's performance in providing access to DSL-capable loops unquestionably satisfies the checklist.<sup>2</sup> Moreover, with respect to the small handful of performance measurements that the commenters do address, their claims are uniformly misplaced.

Pre-Ordering. Verizon demonstrated in its original application and supplemental filing that CLECs may obtain access to loop qualification information by electronically accessing Verizon's loop qualification database, by placing a manual loop qualification request, or by submitting an engineering query. Verizon also demonstrated that it was responding to both

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<sup>1</sup> Joint Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance for Provision of In-Region, InterLATA Services in Kansas and Oklahoma, Memorandum Opinion and Order, CC Docket No. 00-217 (rel. Jan. 22, 2001) ("Kansas/Oklahoma Order").

<sup>2</sup> As described below, see infra p. 21, through December of last year, Verizon's performance for all DSL-capable loop measurements included Verizon's performance on line sharing. This remains the best way in which to view Verizon's overall DSL-capable loop performance given that line sharing orders remain a small fraction of all loop orders and even of DSL-capable loop orders. Nonetheless, as of January 2001, Verizon began reporting its performance separately for unbundled DSL loops and line sharing, and these results further confirm not only that Verizon is performing well for DSL loops overall, but also that its performance is strong if DSL-capable loops and line sharing are examined separately.

mechanized and manual loop qualification requests in a timely and nondiscriminatory manner, and Verizon's latest performance data confirm that this is still the case. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶¶ 29-30. Based on this record, the DTE has reaffirmed that "VZ-MA permits CLECs to obtain loop information relevant to determining whether that loop may support xDSL service." DTE Supp. Eval. at 11.

Since the original filing, Verizon has also begun providing electronic access to the limited loop information that is currently included in the Loop Facility Assignment Control System ("LFACS"). See Lacouture/Ruesterholz Supp. Rep. Decl. ¶¶ 9-11. As described in prior filings, CLECs have always been able to access this information in the same way that Verizon's retail or other personnel would obtain access, through an engineering query. Nonetheless, this added capability enables CLECs to request information in LFACS electronically using any of Verizon's existing pre-ordering interfaces. See id. ¶ 10. In addition, Verizon is in the process of developing a longer-term arrangement to replace the current mechanism for obtaining access to the limited loop information in LFACS. See id. ¶ 12.<sup>3</sup> Contrary to the claims of Covad (at 31), moreover, Verizon has submitted a detailed proposal for this long-term solution through the established change management procedures just as it said it would, and has committed to make

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<sup>3</sup> Covad complains (at 29) that, when Verizon initially made proposals to develop this capability, Verizon sought to have CLECs bear the up-front costs of doing so. This is true. Verizon asked CLECs to agree to reimburse it for the cost of deploying this capability to make sure that CLECs believed that these costs did not outweigh the very limited benefits that access to LFACS (an inventory system for voice-grade services that contains information for loops in only about 10 percent of the serving terminals in Massachusetts) would provide. See Lacouture/Ruesterholz Supp. Decl. ¶ 47. Indeed, no CLEC accepted Verizon's proposal, submitted a contrary proposal, tried to negotiate different terms, or submitted the matter to arbitration. See id. ¶ 54. In any event, Verizon is proceeding ahead with developing this capability and intends to recover the costs of doing so from CLECs through normal cost-recovery mechanisms, as it is entitled to do. See id.

the long-term solution available by October 2001. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶¶ 12-13. In the meantime, the existing mechanism provides access to all the same information as will be available through the long-term solution. See id. ¶¶ 11-12.<sup>4</sup>

A few commenters also raise claims with respect to Verizon's established mechanisms for obtaining access to loop qualification information. First, some commenters claim that Verizon does not provide actual loop-length information to competitors in some instances. See Covad at 28; ALTS at 8-9, 18. Although it is true that Verizon's mechanized loop qualification database does not contain the loop length for every loop in Verizon's network, it does provide an average of the calculated loop lengths at any given loop terminal, and calculated loop lengths for those loops that have been individually tested. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 25. This database now contains loop-length information for more than 91 percent of Verizon's lines in Massachusetts. See id. ¶ 22. Moreover, to the extent that a CLEC seeks the calculated loop length for a loop that is not yet in the database, CLECs may obtain this information through a manual loop qualification request. See id. ¶ 26. As the Commission has already found, the existence of this alternative provides CLECs with nondiscriminatory access to loop-length information. See Kansas/Oklahoma Order ¶ 122 & n.329.<sup>5</sup>

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<sup>4</sup> Covad further claims (at 29) that Verizon has refused to permit Covad to acquire license rights to the software that Telcordia is developing in connection with this long-term arrangement so that Covad may use this software outside of Verizon's region. But Verizon, not Telcordia, is developing the software. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 15.

<sup>5</sup> With respect to ALTS's claim (at 8-9, 18) that CLECs continue to receive "loop not qualified — loop length zero" responses from Verizon's mechanized database, this affects only the small percentage of loops that have not yet been entered into Verizon's mechanized database. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 22. In any event, as part of the next scheduled software release for CLEC-affecting changes in June 2001, Verizon will change the response that it provides to CLECs for such loops to indicate this fact, and will instruct the CLECs to issue a manual loop qualification to obtain such information.

Second, Sprint claims (at 4, 6) that Verizon fails to provide detailed information about digital loop carrier ("DLC") facilities in Verizon's network. But a CLEC may submit an engineering query to obtain information about the existence, type, and location of DLC equipment, or it may submit an electronic request to obtain this information from LFACS. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 20. The UNE Remand Order requires no more. See UNE Remand Order ¶ 427.<sup>6</sup>

Ordering. Verizon demonstrated in its original application and supplemental filing that it provides competing carriers in Massachusetts with access to ordering systems in a timely manner. Verizon's latest performance data confirm that its performance continues to be strong. In December and January, Verizon's average timeliness in returning order confirmations for DSL-capable loop orders has been greater than 93 percent, and its average timeliness in returning reject notices for these orders has been greater than 94 percent. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 32. No commenter here challenges Verizon's order-processing timeliness.

Installation Timeliness. Verizon demonstrated that it installs DSL-capable loops on time based on several different performance measurements that were "developed and refined in a collaborative manner, under the auspices of the NYPSC," and adopted by the Massachusetts DTE. DTE Supp. Eval. at 25.

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<sup>6</sup> Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, 15 FCC Rcd 3696 (1999) ("UNE Remand Order"). Nor, contrary to Sprint's claim (at 7), is Verizon required to create a database to provide loop qualification information on the basis of the zip code or NXX code of the end user. See UNE Remand Order ¶ 429 (ILEC not required to "construct a database on behalf of requesting carriers"). In any event, Verizon provides to CLECs the working telephone numbers and loop lengths in end offices that have been qualified for DSL, which Sprint can easily sort by NXX code and zip code itself. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 19.

Two commenters take issue with the adjustments that Verizon made to its reported performance in September and October to take into account the effects of the work stoppage that Verizon experienced in August (when installation work for dispatch orders was suspended). See Covad at 22-23; NAS at 9-10. As an initial matter, those claims are now moot. The simple fact is that Verizon's performance in providing access to DSL-capable loops has returned to normal levels and no strike adjustment is necessary for the most recent three months of performance data (November, December, and January). In any event, it is only logical to exclude strike-affected orders from the results for September and October in order to get an accurate picture of Verizon's performance under normal operating conditions.<sup>7</sup> And as for Verizon's performance with respect to the orders that were affected by the strike, Covad's own Chairman conceded that Verizon "deserves a lot of credit. They have done a wonderful job. I would highly commend Ivan Seidenberg's organization for really stepping up."<sup>8</sup> In any event, the performance data for the most recent months further confirm that Verizon continues to install DSL-capable loops on time.

*First*, Verizon has demonstrated that its performance under the missed installation appointment measurement (PR-4-04) — which in January became the on-time measurement used in the Performance Assurance Plan ("PAP") — has been strong and improving. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 35 n.2. As the DTE has confirmed, Verizon's performance in November was even better for CLECs than for its own retail customers. See DTE Supp. Eval. at 28. And in December and January, Verizon on average met more than 97

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<sup>7</sup> See, e.g., U.S. Tel., Inc. v. Pacific Tel. & Tel. Co., Memorandum Opinion and Order, File No. E-84-8, 1984 FCC LEXIS 1912, ¶ 4 (rel. Sept. 27, 1984) (finding that performance during labor strike was not "representative of a pattern of conduct").

<sup>8</sup> Interview with Robert Knowling, Jr. on RadioWallStreet.Com at 6 (Oct. 6, 2000).

percent of its installation appointments for CLEC DSL-capable loop orders. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 36. These data confirm that, in the wake of the August strike, Verizon's performance has returned to its high pre-strike levels. Indeed, this measurement now has a 95- percent on-time benchmark, and Verizon has consistently met this benchmark since October 2000 without any adjustment for the August work stoppage. See id. ¶¶ 35-36. Apart from the treatment of strike-related data, which is discussed above, no commenter challenges Verizon's overall performance on the missed appointment measurements for DSL-capable loops.<sup>9</sup>

*Second*, Verizon's performance has been strong under the on-time measurements in the Carrier-to-Carrier reports (PR-4-14 through PR-4-18). These measurements previously were the counterpart of the on-time measurements that, until January, were used in the Performance Assurance Plan, but unlike the PAP measurements they counted facilities misses against Verizon. See id. ¶ 41 n.3. The Carrier-to-Carrier group agreed to revise this measurement in three ways starting in January: (1) it collapsed these five measurements into one (now known as PR-4-14); (2) it agreed to exclude facilities misses; and (3) it agreed, as noted above, that the missed installation appointment measurement, rather than this measurement, would be included in the PAP. See id. Verizon's supplemental filing demonstrated that, from September through November, its performance for non-strike affected orders ranged from 90 to 95 percent under the PAP measurements and under the Carrier-to-Carrier measurements as modified pursuant to the

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<sup>9</sup> NAS claims (at 4-5) that Verizon is to blame for the fact that, under PR-4-03 (installation appointments missed for customer reasons), CLEC customers experience greater no access rates than Verizon's retail customers. But it is the responsibility of the CLEC, not Verizon, to make arrangements for service appointments with their ISP partners and end-user customers. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 39. In any event, Verizon has taken steps to minimize

new business rules. In December and January, Verizon has continued to perform at these high levels, installing more than 93 percent of DSL-capable loops on time. See id. ¶ 42. No commenter has challenged Verizon's performance under these measurements.

Covad and Rhythms claim that these strong results should be discounted based solely on their unfounded speculation that Verizon improperly changes the due dates on certain orders and then scores itself as on-time when it meets the new due date. See Covad at 25-26; Rhythms Williams Supp. Decl. ¶ 22.<sup>10</sup> But neither Covad nor Rhythms identifies a single order where this took place. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 49. In fact, it has been Verizon's consistent practice to score as a miss any order for which Verizon has changed the due date of a FOC due to some fault of its own, even where uncontrollable circumstances such as a storm forces Verizon to reassign installation personnel to restoring existing service, rather than installing new service. See id. ¶ 50.

*Third*, Verizon has demonstrated that its performance under the Average Interval Completed measurement (PR-2-02) shows that Verizon is not only providing DSL-capable loops on time, but also is providing these loops on a nondiscriminatory basis. As the DTE has confirmed, Verizon "provisions xDSL loops to CLECs in approximately the same amount of time that it provisions xDSL loops for its own retail service." DTE Supp. Eval. at 24.

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no access situations, by requiring its technicians to call CLECs that provide a telephone number, in the event they encounter a no access situation. See id. ¶ 40; see also DTE Eval. at 309.

<sup>10</sup> Covad also claims (at 23 n.39) that Verizon should not be permitted to exclude facilities misses if Verizon previously issued a firm order confirmation ("FOC"). But as Covad knows, a FOC is a confirmation that Verizon has received an order and will begin the process of provisioning it, not, as Covad's claim implies, a guarantee that facilities are available. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 46. Although Verizon's loop assignment system (LFACS) will assign a loop when a FOC is issued, there is no way to determine that the assigned loop can be used to fill the order until the due date, when a technician is sent out to the field, provisions the loop, and cooperatively tests it with the CLEC. See id.

Verizon's latest performance data show that this continues to be the case, and that Verizon's average completion intervals have improved. In December and January, Verizon's average interval for CLEC orders that required a dispatch was 6.67 days and 6.43 days, respectively. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 58; see also Kansas/Oklahoma Order ¶ 187 (finding comparable performance for CLECs acceptable). Moreover, the average interval to complete CLEC orders has been steadily decreasing for the past five months, and when orders where CLECs requested longer intervals are excluded from this measurement, the interval decreases by about two additional days, which exceeds parity. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶¶ 60-62; Gertner/Bamberger Supp. Rep. Decl. ¶ 5.

*Finally*, Verizon has demonstrated that its previously reported performance under PR-3-10, which purported to track Verizon's performance in completing orders for DSL-capable loops within six days, did not accurately reflect Verizon's performance.<sup>11</sup> As the DTE has found, "several flaws . . . became apparent" in this measurement "after VZ-MA began reporting it." DTE Supp. Eval. at 25. Accordingly, "in recognition" of these flaws, "carriers in the New York collaborative have agreed" to revise the calculation of this measurement. Id. And as the DTE has noted, calculating the results according to the new definition "establishes a conclusion

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<sup>11</sup> Rhythms claims (at 12) that the six-day interval is "unnecessarily long." But this is the interval that was developed in the New York collaborative proceedings in which Rhythms participated. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 64. Moreover, this interval has no inherent competitive significance given that CLECs routinely acknowledge that it takes between four to six weeks to install service to their own DSL customers. See, e.g., Covad, The Process to Install DSL, [www.covad.com/dslfacts/installationprocess.shtml](http://www.covad.com/dslfacts/installationprocess.shtml) ("Typically, the entire process takes about 30 days from the time you first request Covad DSL service."); RCN, DSL FAQ, [www.enteract.com/dsl/dsl\\_faq.html](http://www.enteract.com/dsl/dsl_faq.html) ("On average it takes between 4 and 6 weeks from the point of order to have a DSL line installed."); Vits, Support Center: Installation, [www.vits.com/support/installation.htm](http://www.vits.com/support/installation.htm) ("It requires approximately 6 weeks from when your order is placed to when a Vits technician can install your high-speed Internet access service").

emphasized by the Department in our filing last year: VZ-MA provisions xDSL loops to CLECs when CLECs request them.” Id. at 27.

In January, Verizon began reporting its performance under PR-3-10 in accordance with the new business rules adopted in the Carrier-to-Carrier proceedings, and the reported results show significant improvement. With respect to the orders that are now included in this measurement, Verizon completed more than 92 percent of them within six days. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 68. Verizon also reported for the first time in January its performance under PR-3-11 (percent completed within nine days), which includes orders for which a CLEC requested a manual loop qualification, and Verizon completed more than 98 percent of the orders included in this measurement on time. See id.

Several commenters claim that Verizon’s performance does not meet the 95-percent benchmark for PR-3-10 that was adopted together with the new business rules. See Rhythms at 16-17; NAS at 2-3; Covad at 24-25. But Verizon’s performance here is very close to the relevant benchmark, and comparable to what the Commission has found acceptable in prior section 271 orders. See, e.g., Kansas/Oklahoma Order ¶ 188 n.537 (approving performance of between 80 and 90 percent on missed installation appointment measurement with 95-percent benchmark); see also New York Order ¶ 55 n.107 (recognizing that “states may choose to set their performance benchmarks at levels higher than what is necessary to meet the statutory nondiscrimination standard”).<sup>12</sup> Moreover, Verizon’s performance on PR-3-10 also has been steadily improving, and the Commission has found that, where performance is both close to the

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<sup>12</sup> Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York, Memorandum Opinion and Order, 15 FCC Rcd 3953 (1999) (“New York Order”).

benchmark and shows an “improving trend,” “performance disparities do not warrant a finding of checklist noncompliance.” Kansas/Oklahoma Order ¶ 187.

Moreover, some commenters criticize this measurement, and question Verizon’s improved results under it, on the grounds that only a small percentage of total CLEC orders for DSL-capable loops are, by design, included in the measurement. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 69. Indeed, Verizon has previously pointed out that this measurement is entitled to little weight for this very reason, as well as the fact that the Commission has not relied on a similar measurement in prior applications. For this reason, the other installation measurements discussed above are a more accurate and reliable indicator of Verizon’s overall performance.<sup>13</sup> Nonetheless, the reported results under the revised definition are good and continue to show nondiscriminatory treatment.

Rhythms takes issue with the fact that, under the new business rules for PR-3-10, loops that have not been pre-qualified are excluded, claiming (at 13) that, because most of Rhythms’ orders were pre-qualified, this does not appear to have been a legitimate problem.<sup>14</sup> But as the

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<sup>13</sup> NAS (at 4) and Rhythms (at 12) argue that PR-3-10 should be further revised to count no access situations against Verizon. But Rhythms’ claim that Verizon’s failure to meet the six-day interval is often the cause of no access situations gets things backwards — no access situations are often what cause Verizon to miss the six-day interval, which is the conclusion that carriers in the Carrier-to-Carrier collaborative reached in agreeing to exclude no-access situations from this measurement. Moreover, NAS’s claim that excluding no access situations is unfair because Verizon gives CLEC customers an 8-hour appointment compared to 2-hour window for its retail customers is simply untrue. Verizon’s standard practice is to provide 8-hour windows to its own retail customers. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 38. If a retail customer has extenuating circumstances and requests a shorter interval, Verizon will try to accommodate it, and it will do the same thing for CLECs. See id.

<sup>14</sup> Rhythms also argues (at 15-16) that Verizon has improperly excluded some orders for which Rhythms requested a six-day interval but did not receive one. On two of the three orders that Rhythms cites as evidence, however, Rhythms did in fact request longer than six days, and they were properly excluded. See Gertner/Bamberger Supp. Rep. Decl. ¶ 6. As for the third order, Verizon actually provisioned it on the day Rhythms requested, so the question whether

evidence that Verizon submitted in its supplemental filing demonstrates, many CLECs other than Rhythms submitted a higher proportion of loop orders requiring manual loop qualification, and none of these other CLECs disputes this fact here. See Lacouture/Ruesterholz Supp. Decl. ¶ 77. Based on such evidence, the Carrier-to-Carrier collaborative agreed to exclude such orders from PR-3-10. See id. ¶ 76.

Loop Quality. Verizon demonstrated that it provides unbundled DSL-capable loops to competing carriers that are equal in quality to the loops used for Verizon's retail DSL service. For example, Verizon demonstrated that, from September through November, the total trouble report rate on the DSL-capable loops ordered by competing carriers was extremely low, and virtually identical to the rate reported by Verizon's retail operations. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 74. This has continued to be the case in December and January. See id. ¶ 75.

Verizon also demonstrated that its reported performance on the subset of trouble reports reported within 30 days of installation (so-called "I-codes") is affected by CLEC behavior and is not an accurate reflection of Verizon's performance. In particular, this measurement (PR-6-01) is skewed by the fact "that at least some CLECs are unable or unwilling to perform basic acceptance testing," the process used to ensure that loops are working at the time CLECs receive them. DTE Supp. Eval. at 30. In recognition of this fact, the Carrier-to-Carrier collaborative agreed to modify this performance measurement to "exclude trouble reports filed by CLECs that do not participate in cooperative testing." Id. at 28.

In its supplemental filing, Verizon recalculated its performance from September through November under the new business rules, which demonstrated that the trouble report rate for

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Rhythms requested a longer interval or not is irrelevant. See id. ¶ 7; see also Gertner/Bamberger Supp. Decl. Att. C.

CLECs was only slightly higher than for Verizon retail (4.8 percent compared to 3.3 percent), and that in one month the difference between the CLEC and Verizon retail rate was eliminated. See Lacouture/Ruesterholz Supp. Decl. ¶ 94. Under the new business rules, Verizon's performance for CLECs is, therefore, even better than what the Commission found acceptable in Kansas and Oklahoma. See Kansas/Oklahoma Order ¶ 191 (approving performance that was above 6-percent I-code rate benchmark).<sup>15</sup> Based on these facts, the DTE has concluded "that the information contained in VZ-MA's supplemental application only affirms our earlier conclusion that VZ-MA provides CLECs an installation quality sufficient to afford them a meaningful opportunity to compete." DTE Supp. Eval. at 29-30.

Moreover, Verizon demonstrated, and the DTE found, that "even after the revisions to the metric" pursuant to the new business rules, "there remains a question whether this metric, PR-6-01, accurately captures VZ-MA's ability to provision a quality xDSL loop." Id. at 30. Verizon accordingly performed an adjustment to its performance data calculated according to the new measure, excluding all I-codes that would have been revealed by properly conducted acceptance testing. See Lacouture/Ruesterholz Supp. Decl. ¶ 96.<sup>16</sup> Verizon demonstrated that, when this

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<sup>15</sup> The DOJ suggests (at 10) that the new business rules may be flawed because they exclude trouble reports from carriers that do not conduct acceptance tests from the numerator but not from the denominator. But this was the revision proposed by the CLECs and adopted by the New York and Massachusetts commissions. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 81. As Verizon has explained previously, this exclusion reflects the fact that, if a CLEC had done acceptance testing, Verizon could have discovered and corrected any problem at that time, and there would be no need for the CLEC to issue a trouble ticket. There is no reason to penalize Verizon because of the choice made by some CLECs not to engage in acceptance testing. Moreover, this standard creates an incentive for CLECs to participate in the cooperative testing of DSL-capable loops so that their troubles are counted in the I-code rate. See id.

<sup>16</sup> Rhythms claims (at 18) that it reviewed the list of I-codes that Verizon excluded in making this adjustment and that its records do not match Verizon's. In all but three cases, however, Rhythms either produced no records with conclusive or relevant data, or, where they did produce records, the records show there was a problem on the line that should have been corrected. See

adjustment is made, the I-code rate for CLECs from September through November was 2.36 percent while Verizon's retail rate was 3.30 percent. See id.<sup>17</sup>

The DTE has also acknowledged that Verizon has taken numerous steps "to assist CLECs" "[i]n an effort to decrease the CLECs' I-Code rates that are attributable to inadequate acceptance testing." DTE Supp. Eval. at 30. The DTE has found "that these initiatives are consistent with the high level of cooperation evidenced by VZ-MA in our § 271 proceeding and only reinforce VZ-MA's commitment to provide its competitors with excellent service." Id. These steps appear to be working, as the CLEC I-code rate has declined even further in the last two months. The I-code rate for CLECs under the new business rules declined to 3.71 and 4.47 in December and January, respectively, compared to 2.79 and 2.64 percent for Verizon's retail customers. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 78. And when the I-code rate is adjusted further to exclude I-codes that properly conducted acceptance testing would have revealed, the I-code rate for CLECs in January drops to 2.49 compared to 2.64 for Verizon retail. See id. ¶ 79.

A few CLECs claim that their individual I-code rates for certain months were higher than the overall I-code rate for CLECs from September through November. See Covad at 11; NAS at 11. But evidence of the variability between CLECs merely confirms that it is possible for CLECs to achieve very low I-code rates and that it is primarily CLEC business practices, not

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Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 94.

<sup>17</sup> Although the DOJ states (at 10) that Verizon's performance shows a lack of parity, the difference of one percentage point here can hardly be considered competitively significant, particularly since Verizon's performance in absolute terms is considerably better than what the Commission has previously found acceptable. See Kansas/Oklahoma Order ¶ 191. Moreover, the I-code rate for CLEC DSL-loop orders (almost all of which require a dispatch) is comparable to the I-code rate on Verizon's retail POTS orders requiring a dispatch. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 82.

Verizon's conduct, that account for the larger I-code rates for some individual carriers. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 86. Indeed, no commenter provides any evidence that Verizon is favoring some CLECs over others, so there is no basis to consider one carrier's individual I-code rates as representative of Verizon's overall performance.

Covad argues (at 12) that Verizon improperly excluded on acceptance-testing grounds loops with the kind of troubles that would normally arise only after acceptance testing — for example, discovery that the loop contained a load coil, ringer, short, digital loop carrier, no continuity, foreign voltage, bridge taps, open pairs, or cross pairs. But Verizon has already explained how these conditions could not arise, or are extremely unlikely to arise, after installation. See Lacouture/Ruesterholz Supp. Decl. ¶¶ 97-100. Covad offers no new explanation to rebut this showing. In fact, Covad has already admitted that it accepts loops with load coils. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 88.

Finally, Covad claims (at 13-15) that Verizon improperly excluded orders where Verizon failed to test at the proper demarcation point. Verizon's technicians have been trained to conduct acceptance testing at the proper demarcation point (the network interface device at the customer's premises), however, and they have no incentive to do otherwise. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 92.

Maintenance and Repair. Verizon demonstrated in its supplemental filing that, on the small fraction of DSL-capable loops for which Verizon needs to provide maintenance and repair, it does so in a timely and nondiscriminatory manner. For example, Verizon demonstrated that, from September through November, it met comparable numbers of repair appointments for CLECs and Verizon's own DSL customers. See id. ¶ 95. It also demonstrated that its mean time to repair was comparable for CLECs' DSL-capable loops and Verizon's own DSL service. See

id. ¶ 97. Based on this record, the DTE has found that “[t]he totality of evidence contained in our record convincingly established that VZ-MA maintains and repairs CLEC xDSL loops in substantially the same time and manner as it does for retail customers.” DTE Supp. Eval. at 32. No commenter disputes this.

Verizon’s performance in the two most recent months continues to show that Verizon’s maintenance and repair performance is strong and improving further still. For example, in December and January, Verizon continued to meet a comparable number of repair appointments for CLECs and for its own DSL customers. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 96. Likewise, in December, Verizon’s mean time to repair CLEC DSL-capable loops fell to only 19 hours, which is only about one hour longer than for VADI. See id. ¶ 98.<sup>18</sup> In January, the mean time to repair for CLECs dropped to under 17 hours, which was more than 7.25 hours better than for VADI. To put this in perspective, since June, Verizon has reduced its total mean time to repair interval for CLECs by more than 64 percent. See id.

Finally, the DOJ states that Verizon’s reported performance for the percentage of DSL loops out of service for more than 24 hours (MR-4-08) “demonstrates a lack of parity, although the percentages are falling for both Verizon and the CLECs, and the gap between the two is shrinking.” DOJ Eval. at 12. This measurement is largely derivative of the mean time to repair measurement, and is likewise affected by CLEC behavior such as the rejection of weekend appointments. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 102. In fact, the rejection of weekend appointments affects Verizon’s reported performance even more under this

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<sup>18</sup> In December, the retail analogue became the maintenance and repair service provided to the DSL customers of VADI, and prior to that time it was the performance provided to Verizon’s own retail DSL customers.

measurement than under the mean time to repair measurement because each rejected weekend appointment causes a CLEC's customer to be out of service for more than 24 hours. See id.

**B. Line Sharing.**

Verizon also is providing other carriers with line sharing on nondiscriminatory terms and conditions. Of course, as with Verizon's performance in providing access to DSL-capable loops as a whole, its performance in providing line sharing must be viewed in context: loops on which Verizon is line sharing with CLECs represent a fraction of the DSL-capable loops that Verizon has provided, a smaller fraction of all unbundled loops, and a still smaller fraction of total competitive lines. See id. ¶¶ 7, 103. Whether Verizon's performance on DSL-capable loops is evaluated as a whole, as it should be, or whether its performance on line shared loops is viewed separately, the conclusion is the same: Verizon has met the checklist.

In fact, in the FCC's recent Line Sharing Summit, Covad gave Verizon high marks for its implementation of line sharing, rating it at the top of the pack among incumbent LECs on a number of issues.<sup>19</sup> And the Massachusetts DTE has concluded that Verizon "is provisioning line-shared loops in a nondiscriminatory manner." DTE Supp. Eval. at 37. Indeed, CLECs in Massachusetts are serving more customers through line sharing than they were in any of the other states that the Commission granted section 271 authority at the time applications were filed in those states. See Attachment B.

As these reply comments further confirm, Verizon's line sharing performance in the most recent months for which data are available remains strong (and has actually improved further

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<sup>19</sup> See Covad Linesharing Implementation Team, Covad Presentation at 4, FCC Linesharing Summit (Jan. 31, 2001) ("Covad Linesharing Presentation").

still), based on a comprehensive showing that goes beyond what the Commission recently found acceptable in the Kansas/Oklahoma Order.

*First*, through December of last year, Verizon's official performance reports for Massachusetts included line-shared loops together with its performance for unbundled DSL loops in order to measure its performance on all DSL-capable loops as a whole. See Lacouture/Ruesterholz Supp. Decl. ¶ 12. This continues to be the most meaningful way to evaluate Verizon's performance. In accordance with the Commission's prior holdings, because carriers in Massachusetts have been ordering line sharing "for a relatively short period of time" and line sharing orders represent a small fraction of all unbundled DSL-loop orders, Verizon's performance on DSL loops as a whole is also the most meaningful measure of its performance in making DSL-capable loops available to other carriers. See New York Order ¶¶ 321, 329, 330 (relying on Verizon's performance on unbundled loops as a whole where the volume of the subset of unbundled DSL loops was small).

*Second*, although Verizon did not begin officially reporting line sharing data separately until 2001, "VZ-MA reviewed its xDSL data from September through November 2000 and included line sharing-specific performance measurements in its supplemental application." DTE Supp. Eval. at 35.<sup>20</sup> This separate line sharing performance data showed not only that CLECs

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<sup>20</sup> CIX claims (at 24) that, because Verizon provided only one month of data for VADI in Massachusetts, there is not enough information to determine whether Verizon's performance was at parity. But Verizon submitted three months of performance data for DSL-capable loops as a whole in Massachusetts, for both CLECs and itself, which is the most meaningful measure of its line sharing performance. Moreover, Verizon provided three months of separate line sharing data for both CLECs and VADI in New York. And although VADI did not become operational in Massachusetts until November, these reply comments show that, in December and January, Verizon's performance for CLECs and VADI was at parity. In any event, the Commission recently approved SBC's application for Kansas and Oklahoma without even a single month of

had already begun submitting line sharing orders in Massachusetts, but also that Verizon's performance in provisioning such orders was timely and nondiscriminatory. See Supplemental Filing at 28. As described below, data for Verizon's line sharing performance for the two most recent months provide further confirmation of this fact.

*Third*, to remove any doubt regarding its ability to handle large volumes of line sharing orders, Verizon provided evidence of its line sharing performance in New York, where commercial volumes developed earlier than they did in Massachusetts. Pursuant to the Commission's framework, see Kansas/Oklahoma Order ¶ 215, Verizon provided extensive evidence, including a third-party review by PricewaterhouseCoopers ("PwC"), demonstrating that its line sharing systems and processes are the same in Massachusetts as in New York, see Supplemental Filing at 28; Sapienza/Mulcahy Supp. Decl. ¶¶ 42-48. Based on this showing, the DTE has "recommend[ed] that the FCC afford substantial weight to VZ-MA's assertion that . . . [its] systems and processes in Massachusetts are comparable to, indeed the very same as, those found in New York." DTE Supp. Eval. at 35. No commenter expresses a different opinion, and indeed Covad (at 20) "heartily endorses" the conclusion that Verizon's line sharing systems in Massachusetts and New York are identical. And, of course, Verizon is now handling commercial volumes of line sharing order in Massachusetts as well, having now provided a total of more than 50,000 line sharing arrangements in that state (including orders both from CLECs and from Verizon's own affiliate). See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 103.

*Fourth*, as the DTE has confirmed, Verizon "has taken several steps designed to improve its line sharing service." DTE Supp. Eval. at 39. For example, Verizon was the first incumbent

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line sharing data for CLECs in either of those two states. See Kansas/Oklahoma Order ¶ 219.

LEC to perform a “splitter signature test,” which is used “to determine whether the splitter, which is necessary for line sharing, is functioning on the line.” *Id.* For this and other reasons, Covad gave Verizon high marks for its implementation of line sharing in the FCC’s recent Line Sharing Summit. For example, Covad gave Verizon higher marks than SBC (whose line sharing performance the Commission appropriately found checklist compliant) in four out of Covad’s seven categories, and the same marks in the other three.<sup>21</sup>

Finally, Verizon demonstrated in its supplemental filing, again including the results of a third-party review by PwC, that its interfaces and internal systems and processes that are used to provision the line sharing orders of Verizon’s separate data affiliate are the same as those used to process the orders of all other CLECs. *See* Sapienza/Mulcahy Supp. Decl. ¶¶ 71-73. Based on Verizon’s showing, the DTE has “recommend[ed] that the FCC afford substantial weight to VZ-MA’s assertion that it offers nondiscriminatory service to its OSS functions necessary to order and provide line sharing.” DTE Supp. Eval. at 35.<sup>22</sup>

Despite Verizon’s comprehensive showing with respect to line sharing, a few commenters challenge certain aspects of Verizon’s line sharing performance, but their arguments, as demonstrated below, are wide of the mark.

Pre-Ordering. As Verizon explained previously, it offers the same pre-ordering capabilities and interfaces for line sharing as it offers for DSL-capable loops. *See* Supplemental

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<sup>21</sup> *See Covad Linesharing Presentation* at 4.

<sup>22</sup> In an attempt to discredit PwC’s review, Covad claims (at 21) that the only evidence on which PwC relied in finding that the systems used by VADI and CLECs are nondiscriminatory were statements by Verizon employees to that effect. In fact, PwC conducted a thorough analysis of the systems, processes, and interfaces used by both VADI and CLECs, and found them to be the same. *See* Sapienza/Mulcahy Supp. Rep. Decl. ¶¶ 26-29. Moreover, PwC analyzed Verizon’s handling of orders for VADI and CLECs and found it to be nondiscriminatory. *See id.* ¶¶ 6-20.

Filing at 29. As described above, and as no commenter disputes, Verizon's pre-ordering performance for DSL-capable loops, including line sharing, continues to be excellent. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 105. On this score, there is no dispute.

Ordering. Verizon also previously explained that it offers the same ordering capabilities and interfaces for line sharing that it offers for unbundled DSL-capable loops. See Supplemental Filing at 28-29. Here, too, Verizon's performance has been excellent, as demonstrated by the performance data in the supplemental filing, as well as the new performance data that have become available since that time. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶¶ 106-107. Again, no commenter has challenged this performance.

Installation Timeliness. As explained above, Verizon's performance in provisioning unbundled DSL-capable loops as a whole has been strong. The same is true when line-shared loops are viewed separately. As the DTE has verified, "VZ-MA's line sharing data for the month of November, the first month in which VADI was operational, show that VZ-MA provisions line-shared loops, not requiring a dispatch, for CLECs faster than it does for VADI." DTE Supp. Eval. at 36.

Verizon's performance in December and January continues to show that it provides service to its wholesale customers on time. For example, during these two months Verizon met 99 percent of its installation appointments for non-dispatch orders for both CLECs and VADI in Massachusetts. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 110. In New York, Verizon likewise met 99 percent of CLEC non-dispatch appointments in December and 98 percent of CLEC non-dispatch orders in January. See id. Consequently, Verizon continues to fill orders on time.

Moreover, Verizon continues to fill orders on nondiscriminatory terms. During December and January, the average interval completed for non-dispatch line sharing orders in Massachusetts was nearly identical for CLECs and for VADI — 5.84 days compared to 5.85 days. See id. ¶ 112. And in New York, the average interval completed for CLECs on the same type of orders was approximately half a day better for CLECs than VADI — 5.34 days compared to 5.93 days. See id.

As with DSL-capable loops as a whole, the only real dispute about Verizon's line sharing installation performance concerns its reported results under the line sharing equivalent of PR-3-10, which tracks the percentage of orders completed within six days — the standard interval that was in effect during the months covered by the supplemental filing.<sup>23</sup> For example, Covad argues (at 8) that Verizon should have reported its line sharing performance pursuant to the five-day interval that went into effect for the first time at the end of November 2000. But the most recent month of data that was available at the time of the supplemental filing was November, and the shorter interval had not taken effect for that month.

In any event, Verizon has reported its performance under the new five-day interval that went into effect in December (PR-3-08), as well as under the new four-day interval that Verizon voluntarily agreed to and that went into effect in the middle of January (PR-3-07). See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 114. These results show that Verizon's performance continues to improve. In January, for example, Verizon provisioned over 97 percent of CLEC line sharing orders within five days. See id. And Verizon provisioned 100 percent of the line

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<sup>23</sup> See DTE, Phase 3 Order at 53, Case No. 98-57 (Sept. 29, 2000) (“[T]he most reasonable option for intervals is to start with the FCC’s suggested interval, i.e., an interval that is at parity with Verizon’s own retail xDSL service. This is the most reasonable option because it is based on actual experience and it maintains parity between Verizon and its competitors.”).

sharing orders within four days, although the number of observations here was very small. See id.

Quality. As with installation timeliness, the best way to evaluate the quality of the DSL-capable loops that Verizon provides to competitors through line sharing is to look at Verizon's performance for DSL-capable loops as a whole. And as explained above, Verizon's performance here has been strong, as the DTE has found. Nonetheless, Verizon's performance also is strong if line shared loops are evaluated separately. As the DTE has noted, "although VADI did not submit any I-Code reports in the month of November . . . the CLEC I-Code rate was only 1 percent, and, in the two previous months, CLECs did not file any trouble reports within 30 days of installation." DTE Supp. Eval. at 36.

Verizon's latest performance data provide further confirmation that the quality of the line-shared loops that Verizon provides to CLECs is equal in quality to what it provides to its own retail DSL operations. In December and January, the total trouble report rate for CLECs in Massachusetts was only 0.75, which is both extraordinarily low and comparable to the trouble report rate for VADI of 0.27. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 117. Likewise, in New York, the total trouble report rate was also a low 0.88 for CLECs compared to 0.35 for VADI. See id.

Moreover, Verizon's performance also has continued to be good on the subset of trouble reports within 30 days of installation. In Massachusetts, the I-code rates for CLECs during December and January were 1.47 and 1.64, respectively. See id. ¶ 118. And in New York, the I-code rates were 1.14 and 1.03 during these two months. See id.

Covad nonetheless alleges (at 8) that Verizon's performance data are misleading because Verizon does not score as I-codes problems that occur with CLEC splitters located at customer

premises. Covad is wrong. Problems with splitters are properly classified as “CPE troubles” because they involve equipment that is not part of Verizon’s network, but rather are equipment that either the CLEC or its end user customer owns and controls. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 119.

A few CLECs claim that Verizon has not completed the work necessary for them to place line sharing orders in a substantial number of central offices. See Covad at 6-8; Rhythms at 6-10. But this is not the case. In fact, for all line-sharing-related collocation arrangements that were in place in Massachusetts as of December 1, 2000 — which account for the vast majority of line sharing arrangements — Verizon has completed the initial collocation work, a Quality Inspection audit, and any corrective action that such audit identified as necessary. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 126. Indeed, Covad refers to (at 7) only two central offices in Massachusetts where it believes Verizon is not ready to provide line sharing.<sup>24</sup> But in both of these offices the reality is that Verizon had already completed line sharing orders for Covad. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 131. Similarly, Rhythms names only four central offices in Massachusetts where it believes Verizon is not ready for line sharing, but Verizon has already completed line sharing orders for Rhythms in one of these offices, and

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<sup>24</sup> Covad claims (at 7) that a February 1, 2000 e-mail from Verizon to Covad indicated that Verizon had not completed the collocation work on 130 central offices — “a majority of them in New York and Massachusetts.” In fact, only two of the 130 offices to which Covad refers are in Massachusetts. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 129. Moreover, the e-mail does not state that Verizon had not completed work on these 130 central offices, but just the opposite — that for each of these offices Verizon has already “taken corrective action on build issues.” See id. Verizon did indicate that it had not yet performed a “re-audit” of these 130 central offices, which is a process that Verizon has adopted to inspect its own corrective actions, but this had no effect on the two central offices at issue in Massachusetts, where Verizon had already begun provisioning line sharing orders to Covad at the time the e-mail was sent. See id. ¶ 132.

Verizon's repeated reexaminations of these offices have revealed no outstanding problems with Verizon's collocation work. See id. ¶ 139.

Maintenance and Repair. Verizon's supplemental filing demonstrated that its maintenance and repair performance for DSL-capable loops overall was strong, as was its performance for the specific subset of loops provided through line sharing arrangements. Verizon's latest line sharing data show that this has continued to be the case. See id. ¶ 120. Although the number of trouble tickets submitted by CLECs for line sharing orders in Massachusetts remains small, Verizon's performance here demonstrates that CLECs receive nondiscriminatory treatment.

As an initial matter, Verizon continues to provide nondiscriminatory treatment in meeting repair appointments. In Massachusetts, the total number of trouble tickets remains low, and Verizon missed only one of the repair appointments each month for the no-dispatch trouble tickets that CLECs submitted during December and January (which make up the bulk of the line sharing troubles). See id. ¶ 121. In New York, during the same two months, Verizon met 90 percent of the repair appointments on the no-dispatch trouble tickets that CLECs submitted, and 87 percent of the repair appointments on the no-dispatch trouble tickets submitted by VADI. See id.

As was the case at the time of the supplemental filing, the small number of troubles submitted by CLECs means that the mean time to repair can be affected disproportionately by a few trouble tickets. See id. ¶¶ 122-123. In New York, the number of trouble tickets is higher but still small, and Verizon's performance was severely affected by a single trouble ticket involving build issues that took 40 days to resolve. See id. ¶ 123.

Line splitting. Verizon is providing line splitting consistent with the Texas Order and the Line Sharing Reconsideration Order.<sup>25</sup> As Verizon has previously explained, it has always been the company's position that CLECs may engage in line splitting. See Verizon Application at 34. Verizon has recently clarified this position in a policy statement and CLECs may have contract language reflecting this policy statement incorporated into their interconnection agreements. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 160. Verizon also has added line splitting contract language to its Model Interconnection Agreement. See id. As this policy statement makes clear, CLECs may engage in line splitting by using Verizon's existing OSS "to order and combine in a line splitting configuration an unbundled xDSL capable loop terminated to a collocated splitter and DSLAM equipment provided by a participating CLEC, unbundled switching combined with shared transport, collocator-to-collocator connections, and available cross-connects."<sup>26</sup>

WorldCom argues (at 24-26) that Verizon has not done enough to prove that it is operationally ready for line splitting, claiming that Verizon has not shown actual commercial experience in providing line splitting, and that Verizon's systems for line splitting have not undergone third party testing. But the provision of line splitting involves the combining of existing unbundled network elements, and the Commission has already found that Verizon

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<sup>25</sup> See Application by SBC Communications Inc., Southwestern Bell Telephone Company, and Southwestern Bell Communications Services, Inc. d/b/a Southwestern Bell Long Distance Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Texas, Memorandum Opinion and Order, 15 FCC Rcd 18354 (2000) ("Texas Order"); Deployment of Wireline Services Offering Advanced Telecommunications Capability; Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order on Reconsideration in CC Docket No. 98-147, Fourth Report and Order on Reconsideration in CC Docket No. 96-98, Third Further Notice of Proposed Rulemaking in CC Docket No. 98-147, Sixth Further Notice of Proposed Rulemaking in CC Docket No. 96-98 (rel. Jan. 19, 2001) ("Line Sharing Reconsideration Order").

<sup>26</sup> Verizon, Line Splitting Policy (Feb. 14, 2001), available at [www.bellatlantic.com/wholesale/html/clec\\_01/02\\_14.htm](http://www.bellatlantic.com/wholesale/html/clec_01/02_14.htm).

provides access to unbundled network elements “in a manner that allows competing carriers to combine those elements themselves.” New York Order ¶ 231.

Moreover, WorldCom and Covad claim that Verizon has not yet fully developed the OSS for all of the various ways that carriers ultimately may order line splitting, such as converting UNE-platform or line sharing arrangements to line splitting arrangements. See WorldCom at 26-28; Covad at 10. But the fact is that the Commission only recently adopted or clarified its requirements in its Line Sharing Reconsideration Order, which was released three days *after* Verizon filed its supplemental application. Moreover, that Order explicitly recognizes that incumbent LECs have not yet taken the steps to develop specific processes for line splitting, but rather “strongly urge[s] incumbent LECs and competing carriers to work together to develop processes and systems to support competing carrier ordering and provisioning of unbundled loops and switching necessary for line splitting” through “existing state collaboratives and management processes.” Line Sharing Reconsideration Order ¶ 21. By its own terms, therefore, it does not require an immediate showing that such processes and systems already are in place. This, of course, is consistent with well settled Commission precedent in the context of 271 applications. See, e.g., New York Order ¶ 140 (Verizon not required to comply with UNE Remand Order requirements that had not taken effect at time of Verizon’s application).

Nonetheless, the fact is that Verizon had already begun the process to develop the line splitting capabilities specified by the Commission even before the release of the Line Sharing Reconsideration Order. In the New York DSL collaborative, Verizon has been working with competing carriers to, among other things, develop a specialized ordering process to support basic line splitting, and also the migration from other arrangements such as UNE platform and line sharing to line splitting. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 157. And

participants in the collaborative have already agreed to an implementation schedule, which calls for Verizon to conduct a pilot of these new OSS capabilities in June of this year, and to implement them by October. See id.

Access at Remote Terminals. Verizon enables competing carriers to engage in line sharing on lines served by digital loop carrier systems consistent with the Line Sharing Reconsideration Order. In particular, a CLEC seeking to serve a customer on a DLC-equipped loop may collocate its DSLAM at or near the remote terminal, where such space is available, and then purchase either a fiber or copper subloop to transport its data signal back to the central office. See id. ¶¶ 162-163.

Rhythms alleges (at 18) that Verizon has improperly failed to file a tariff in Massachusetts that would enable CLECs to have their line cards placed in Verizon's remote terminals. But the due date for filing this tariff is not until March 9, 2001. See Lacouture/Ruesterholz Supp. Rep. Decl. ¶ 167. Moreover, Verizon is under no obligation to provide CLECs with an end-to-end packet switching service similar to SBC's offering made as a condition of the waiver it received of its merger conditions to proceed with its so-called Project Pronto. See id. ¶ 165. And contrary to Covad's claim (at 35), Verizon's efforts to point this out to state commissions in Maryland and Pennsylvania were not only entirely appropriate there, but utterly irrelevant here.

**C. Pricing Issues.**

The Massachusetts DTE has reaffirmed its "conclusion that VZ-MA's UNE rates are in compliance with checklist requirements." DTE Supp. Eval. at 20. Under the Commission's well-settled precedent, this should be the end of the inquiry. The Commission "will not conduct a *de novo* review of a state's pricing determinations and will reject an application only if 'basic TELRIC principles are violated or the state commission makes clear errors in factual findings on